In the High Court of Judicature at Madras

Dated: 29.11.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal No.1508 of 2003

Narasamma ..Appellant/petitioner

..vs..

1. The Corporation of Chennai,
   rep.by its Commissioner,
   Ripon Buildings,
   Chennai-600 003.

2. The Zonal Officer,
   Zone-IV,
   Corporation of Chennai,
   Ayanavaram,
   Chennai-600 023. ..Respondents/ Respondents

Writ Appeal filed under Clause XV of the Letters Patent against the order dated 23.01.1998 passed in W.P.No.1438 of 1996.

W.P.NO.1438/1996.
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Petition presented under Article 226 of the constitution of India to issue a writ fo Mandamus directing the respondents to disburse the family pension from 11/11/1988 to till the disposal of the petition together with 18% interest due to the deceased employee G. Ramaiah employed as R.C Driver in "C" Cattle Depot, Zone IV, under the Corporation of Madras, Madras -3.

For Appellant : Ms.Nagasaila
For Respondents : Mr.V.Bharathidasan

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.,)

The above Writ Appeal is directed against the order of the learned single Judge dated 23.01.1998 made in W.P.No.1438 of 1996, in and by which, the learned Judge dismissed the petition filed for disbursing family pension from 11.11.1988.

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2. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents.

3. Considering the limited issue, we are of the view that there is no need to traverse all the factual details furnished in the affidavit. However, it is relevant to note that the husband of the petitioner, by name, G.Ramaiah was appointed as R.C.Driver 'A'Deport on 01.07.1976 and he was made permanent on 01.10.1987. It is further seen that on 11.11.1988, he died. The petitioner is none else than his wife, viz., G.Narasamma. All these particulars are available in the Service Roll and death certificate of the deceased G.Ramaiah issued by the Corporation of Madras, which are available at pages 8 and 9 of the typed set filed by the appellant.

4. It is not in dispute that the qualifying service for eligibility of pension being paid is one year. In view of the fact that the husband of the appellant / petitioner was made permanent on 01.10.1987 and he died only on 11.11.1988, it is clear that she is eligible for family pension. No doubt, the learned counsel for the respondents submitted that during the said period of one year, he was on leave for more than two months. Inasmuch as the records available with the Corporation clearly show that the deceased was in permanent service for more than one year and was eligible for pension, merely because he was on leave for a particular period during the said period of one year, the claim of the petitioner, who is none else than his wife, cannot be rejected. The learned Judge has not considered the material aspects referred to above.

5. The learned counsel for the respondents also brought to our notice that the Joint Examiner of Local Fund Accounts, Corporation of Audit, Madras-3, intimated the Circle Officer, Corporation of Madras, by letter dated 01.10.1990 stating that since the deceased had less than one year qualifying service, further action regarding the sanctioning of terminal benefits will be taken after getting the clarification from the Government. In view of our conclusion in the earlier paragraphs, we are of the view that the apprehension raised by the Local Fund Accounts, Corporation Audit, cannot be sustained. We hold that the appellant / petitioner, wife of the deceased, is eligible for family pension, according to the Rules.

6. Under these circumstances, the respondents are directed to settle family pension allowable to the appellant / petitioner from 11.11.1988 till November, 2006 with interest at the rate of 6% per annum for the said amount, within a period of three months or on or before 01.03.2007 and continue to pay family pension as per the Rules.

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Writ appeal is allowed with the above direction. No costs.

gl

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings,
   Chennai-600 003.
2. The Zonal Officer,
   Zone-IV,
   Corporation of Chennai,
   Ayanavaram, Chennai-600 023.

+ One cc to Mr. Mr.N. Beulah Johnselvaraj Advocate SR.No.58632
+ One cc to Mr. V. Bharathidasan Advocate SR.No.58534.

BV (co)
sg 01/12/06

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